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Linda K. Russell
IP Department
Air Liquide
2700 Post Oak Boulevard, Suite 1800
Houston, Texas 77056

In re Application of :
SCHMUTZ et al. :
U.S. Application No.: 10/565,712 : DECISION ON PETITION
PCT No.: PCT/FR04/50348 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 21 July 2004 :
Priority Date: 04 August 2003 :
Attorney Docket No.: Serie6353 :
For: CIRCUIT FOR SUPPLYING OXYGEN :
TO AIRCRAFT PASSENGERS :

This decision is issued in response to applicants' "Petition for Filing By Other Than All the Inventors under 37 CFR 1.47(a)" filed 14 August 2006 to accept the application without the signature of joint-inventor, Jean Dehayes. The \$200 petition fee will be charged to Deposit Account no. 01-1375 under 37 CFR 1.17(f).

BACKGROUND

On 21 July 2004, applicants filed international application PCT/FR04/50348 which claimed a priority date of 04 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 February 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 04 February 2006.

On 25 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 11 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. The notification set a two-month time limit in which to respond.

On 14 August 2006, applicants filed a Petition under 37 CFR 1.47(a) and a one-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (2) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Jean Dehayes. The steps are sufficient to show that Jean Dehayes has refused to execute the application.

Regarding item (3) above, a clear statement of the last known address of the nonsigning inventor has not been provided. In situations where an inventor does not execute the oath or declaration, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. (See MPEP §605.03)

As to Item (4), a review of the declaration filed on 14 August 2006 reveals that declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes duplicate sheets of page 3 of 3. It is unclear if the inventors were presented with only their signature page, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 14 August 2006, which is improper. (See MPEP 201.03, Page 200-7) Therefore, in order to satisfy this item, applicants are required to file declaration(s) which comply with 37 CFR 1.497(a) and (b).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Jean Dehayes under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450,

Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

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